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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,495	03/12/2001	Klaus Kohlhammer	WAS 0437 PUS	1365

7590 03/17/2004  
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EXAMINER

SANDERS, KRIELLION ANTIONETTE

ART UNIT PAPER NUMBER

1714

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/804,495	KOHLHAMMER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kriellion A. Sanders	1714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 13-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-27 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____                                    |

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1. Applicant's election with traverse of the invention of Group I, claims 1-12 and the species of polymer powders in Paper No. 2 is acknowledged. The traversal is on the ground(s) that the inventions of Group I cannot be made by the materially different process of random polymerization as such would result in the preparation of a single copolymer as opposed to a mixture. This is not found persuasive because copolymer A0 and copolymer B) could each independently of the other be prepared by random polymerization and then mixed together. This is a materially different process of making the invention then is set forth in the claims of Group II.

The requirement is still deemed proper and is therefore made FINAL.

Claims 13-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 2.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Wierer et al, US Patent No. 6,599,455.

Wierer et al discloses a crosslinkable binder composition for producing wood particles comprising copolymers A) and B) wherein A) comprises a copolymer comprising one or more

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comonomer units selected from the group consisting of vinyl esters of unbranched or branched alkylcarboxylic acids having from 1 to 18 carbon atoms, acrylic esters or methacrylic esters of branched or unbranched alcohols having from 1 to 15 carbon atoms, dienes, olefins, vinylaromatics and vinyl halides, and from 0.1 to 50% by weight, based on the total weight of the copolymer of one or more units comprising carboxyl, hydroxy or NH groups, and B) comprises at least one compound having at least two reactive groups which can react with the carboxyl, hydroxy or NH groups specified under A) and are selected from the group comprising epoxy, N-methylol, isocyanate and ethylene carbonate groups. The two constituents A) and B) are present in such a ratio that the molar ratio of functional comonomer units of constituent A) to those of constituent B) is in the range from 5:1 to 1:5. Particular preference is given to equimolar ratios of the functional comonomer units. If appropriately functionalized copolymer have been used for each of the constituents A) and B), they are selected so that they are compatible with one another, i.e. are miscible with one another on a molecular level. For this reason, the copolymers A) and B) present in the combination are usually chosen so that they are made up predominantly of the same comonomer units, apart from the functional comonomer units. The greatest preference is therefore given to compositions comprising carboxyl-functional styrene-n-butyl acrylate and/or styrene-methyl methacrylate-n-butyl acrylate copolymers as constituent A) and styrene-n-butyl acrylate and/or styrene-methyl methacrylate-n-butyl acrylate copolymer(s) containing glycidyl methacrylate units as constituent B).

The constituents A) and B) can be employed in dry, pulverulent form (dry gluing), or in the form of an aqueous dispersion or an aqueous solution (wet gluing). The constituents A) and B) can both be used as powder or both be used as aqueous solution or aqueous dispersion.


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3. Copolymer A) is, for example, a carboxyl-functional styrene-n-butyl acrylate copolymer and B) is, for example, a styrene-n-butyl acrylate copolymer containing glycidyl methacrylate monomer units. The copolymers may be used in powder or aqueous dispersion form. In the abovementioned copolymers the comonomers are preferably copolymerized in such a ratio that both copolymer A) and copolymer B) have a melting point or a glass transition temperature "Tg" of >30.degree. C., preferably 45.degree. C. See in particular, claims 1, 6 and 8 and 10 of the patent. These copolymers directly correspond to those of applicant's claim 12.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2351.

  
Kriellion A. Sanders  
Primary Examiner  
Art Unit 1714

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March 8, 2004